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AT SEATTLE
CLERK U.S. DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
BY DEPUTY

UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

UNITED STATES OF AMERICA,

Plaintiff

v.

ROBERT SCOTT MILLER,

Defendant.

CASE NO.

15-407

COMPLAINT FOR VIOLATION

Title 18, U.S.C. Section 1343
Title 18, U.S.C. Section 1163

BEFORE, Dean Brett, United States Magistrate Judge, U.S. Courthouse, Seattle,
Washington.

The undersigned complainant being duly sworn states:

COUNTS 1-9
(Wire Fraud)

A. Introduction

1. At all times material to this Complaint, the Swinomish Indian Tribal
Community ("the Swinomish Tribe" or "the Tribe") was a federally-recognized Indian
tribal organization with a reservation located in the northwest portion of Washington
State.

1 2. Defendant ROBERT SCOTT MILLER is an employee of the Swinomish
2 Indian Tribal Community Fish and Game Enforcement Department (the "FGE"), and was
3 a FGE Officer at all times alleged in this Complaint.

4 3. As a FGE Officer, ROBERT SCOTT MILLER was allowed to order
5 equipment, supplies, and other items as needed for the official operations of FGE.
6 ROBERT SCOTT MILLER was allowed to use the Tribe's corporate credit card for
7 these purposes. The Tribe's corporate credit card is with Key Bank whose headquarters
8 are located in Fargo, North Dakota ("Key Bank card").

9 4. ROBERT SCOTT MILLER was required to complete a Purchase
10 Requisition/Disbursement Authorization form at the time of, or shortly after, each such
11 official purchase or expense, and to provide a copy of the receipt(s). The Purchase
12 Requisition form was then forwarded to the Tribe's accounting group.

13 5. Tribal policy required the purchaser, specifically MILLER, to provide the
14 tribal accounting department with truthful information about each purchase and expense,
15 verifying that the purchase and expenses was needed for the official operations of FGE.
16 The tribal accounting department, relying on this information, would then make payment
17 on the Key Bank card using tribal funds.

18 B. The Scheme and Artifice to Defraud

19 7. Beginning in or around January 2012, and continuing until at least June 1,
20 2015, in Skagit County, within the Western District of Washington, and elsewhere,
21 ROBERT SCOTT MILLER, with intent to defraud, knowingly devised a scheme and
22 artifice to defraud and obtain money and property by means of materially false and
23 fraudulent pretenses, representations and promises, as set forth below.

24 8. ROBERT SCOTT MILLER used his position as a FGE Officer to embezzle
25 funds and property belonging to the Swinomish Tribe, and to use tribal property and
26 credits for ROBERT SCOTT MILLER's personal use, by concealing material
27 information from, and making false representations to, the tribal accounting department
28 and other members of FGE and the tribal government.

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1 C. Manner and Means

2 9. It was part of the scheme and artifice to defraud that ROBERT SCOTT
3 MILLER, without the knowledge or authorization of the Swinomish Tribe or its
4 accounting department, used a Key Bank card to obtain property for non-official
5 purposes of the Swinomish Tribe, including for his personal use and benefit.

6 10. ROBERT SCOTT MILLER had access to two of Swinomish Tribe's Key
7 Bank cards – Visa card number ending in 8096 and Visa card number ending in 4875.

8 10. Specifically for equipment, parts, and supplies as identified below,
9 ROBERT SCOTT MILLER used the Key Bank card to buy those items, and did so for
10 non-official purposes. ROBERT SCOTT MILLER completed a Purchase Requisition
11 form for each item, but made false statements on the Purchase Requisition form and/or
12 had his supervisor sign the form without advising his supervisor that the one or more of
13 the purchases were not intended for the official use of the Swinomish Tribe.

14 11. ROBERT SCOTT MILLER also directed that the items purchased were
15 sent to one of his residences rather than to the FGE Office. He also stored these items at
16 his residence rather than at the FGE office or other storage locations used and held by the
17 Swinomish Tribe.

18 12. Each time that ROBERT SCOTT MILLER used the Key Bank card, a
19 transmission was caused by Key Bank of interstate computer signals, including signals to
20 and from Key Bank's central computer server in Fargo, North Dakota, and the State of
21 Washington, in order to process the credit charge.

22 13. Each time that the Swinomish Tribe paid the amount charged on the Key
23 Bank card, a transmission was caused by Key Bank of interstate computer signals.

24 D. Execution of the Scheme to Defraud

25 14. On or about the dates set forth below, in Skagit County, within the Western
26 District of Washington, and elsewhere, for the purpose of executing the scheme and
27 artifice to defraud, ROBERT SCOTT MILLER did knowingly transmit and cause to be
28 transmitted by wire communication in interstate and foreign commerce, writings, signs,

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1 signals, pictures, and sounds, each of which constitutes a separate count of this

2 Complaint:

3	<u>Count</u>	<u>Date</u>	<u>Activity</u>
4	1	January 9, 2012	Key Bank credit charge of \$689.99 for a P20A 15
5			Gallon Pump with Clutch at Redden Marine
6	2	February 27, 2012	Key Bank credit charge of \$76.00 for a UPFR-BB
7			Single Analog Fuel Tank Gauge (Black) and
8			WEMA Tank Sensor from WEMA USA
9	3	February 27, 2012	Key Bank credit charge of \$470.81 for fuel for
10			patrol skiff.
11	4	April 3, 2013	Key Bank credit charge of \$420.29 for two
12			mandrels for sea pump pulley, one billet power
13			steering v-groove pulley, and one "Lifetime" sea
14			pump overhaul kit from Hardin Marine
15	5	February 25, 2014	Key Bank credit charge of \$480.35 for strainer and
16			cleats from GoMarine
17	6	February 10, 2014	Key Bank credit charge of \$278.95 for Bose
18			Marine waterproof speaker from Bose
19	7	April 22, 2014	Key Bank credit charge of \$209.99 for a chainsaw
20	8	April 29, 2014	Key Bank credit charge of \$770.93 for two P & E
21			16x24 anchor aluminum hatches from LFS Marine
22			& Outdoor
23	9	January 27, 2015	Key Bank credit charge of \$69.98 for two rifle
24			bags from Midway USA

25 All in violation of Title 18, United States Code, Section 1343.

26 Counts 10-11
27 (Theft of Tribal Funds)

28 15. Paragraphs 1 through 14 of this Complaint are re-alleged and incorporated
as if fully set forth herein.

16. On or about the dates set forth below, in Skagit county, within the Western
District of Washington, and elsewhere, ROBERT SCOTT MILLER did knowingly
embezzle, steal, convert to the use of himself and others, and willfully misapply and
permit to be misapplied, monies, funds, credits, assets and property belonging to the
Swinomish Tribe, an Indian tribal organization, and knowing such monies, funds, credits,

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assets and property to have been embezzled, stolen, converted and misapplied, did receive, conceal, and retain the same with intent to convert them to his use the following items:

<u>Count</u>	<u>Date</u>	<u>Activity</u>
10	February 4, 2014	Purchase of 20" LED light in the amount of \$709.99
11	March 24, 2015	Purchase of Sebos Shop Vac in the amount of \$92.21

All in violation of Title 18, United States Code, Section 1163.

And the complainant states that this Complaint is based on the following information:

17. I am a Special Agent with the Federal Bureau of Investigation, currently assigned to the Bellingham, Washington Resident Agency of the Seattle, Washington Field Office. I am an investigative and law enforcement officer of the United States within the meaning of Title 18, United States Code, Section 2510(7). My duties as a SA include the full time investigation of a wide range of federal criminal offenses, including investigations involving violations of federal law on Indian reservations such as financial crimes, violent crimes, and drug offenses.

18. I have set forth only those facts I believe are relevant to the determination of probable cause for the issuance of a Criminal Complaint in support of Counts 1 through 10 above. The facts set forth in this Affidavit are based on my own personal knowledge; knowledge obtained from other individuals during my participation in this investigation, including other law enforcement officers; interviews of cooperating witnesses; review of documents and records related to this investigation; communications with others who have personal knowledge of the events and circumstances described herein; and information gained through my training and experience.

19. At all times material to the facts contained in this Complaint, the Swinomish Indian Tribal Community was and is a federally-recognized Indian tribe

1 located in Skagit County, Washington State, and was and is subject to the laws of the
2 United States.

3 20. ROBERT SCOTT MILLER is a Swinomish Tribal Fish and Game
4 Enforcement Officer. MILLER has served in this capacity from approximately 1997 to
5 the present. As a Swinomish Tribal Fish and Game Enforcement Officer, MILLER is
6 responsible for protecting Treaty Resources and enforcing the Tribe's management
7 policies by providing competent and visible patrols within the Tribe's fishing, hunting,
8 and gathering areas.

9 21. For at least the past several years, MILLER has resided at two separate
10 addresses: 11193 Swinomish Avenue, La Conner, Washington, or 17471 Snee Oosh
11 Road, La Conner, Washington.

12 22. I have reviewed the Swinomish Tribal policy on employee-issued tribal
13 credit cards. Based on this written policy, tribal credit cards are to be utilized for
14 Swinomish Tribal business purposes only. The policy also states that the use of tribal
15 credit cards for personal purchases is strictly prohibited. There are no exceptions to this
16 policy. Employees using a tribal credit card are required to maintain and submit
17 documentation verifying all purchases, for example, a receipt or payment statement. The
18 documentation of purchases is required to be provided to the accounting office within one
19 week of purchase. Employees who violate this policy will be subject to corrective action
20 up to and including immediate termination and will be required to immediately repay all
21 personal charges. For employees who make purchases presumptively on behalf of the
22 Swinomish Tribe, they are to submit similar documentation to the accounting office for
23 reimbursement. Based on documentation of purchases, the Swinomish Tribal accounting
24 department processes payment of the tribal credit card with tribal funds.

25 23. In order to receive authorization to use a Tribal credit card, employees are
26 required to receive signed authorization from their department head and submit
27 documentation to the accounting department for all use of the credit cards.
28

1 24. If an employee uses personal funds (i.e. cash, personal check, personal
2 credit card, etc.), the employee is required to receive signed authorization from their
3 department head and submit the documentation to the accounting department in order to
4 receive a check for reimbursement.

5 25. The Swinomish Tribe has a corporate credit card account and receives a
6 single monthly bill for all of the Tribal credit cards. Swinomish Tribe writes a check for
7 all the credit card balances to the credit card company each month. The checks are
8 written out to "Corporate Payment Systems".

9 26. As a Fish and Game Enforcement Officer, ROBERT SCOTT MILLER was
10 authorized by the Swinomish Tribe to use Swinomish Tribe Key Bank credit cards held
11 in the name of PGE department heads. One Key Bank card was in the name of Todd
12 Wilbur and ended in number 8096. Todd Wilbur was the former Director of FGE; he
13 passed away in December 2014. The other Key Bank card was in the name of Ray Erps,
14 the present Director of FGE, and this card's number ends in 4875. MILLER also had
15 access to a Shell Fleet Services gas card for the fueling of the Swinomish Tribe vehicle to
16 which was assigned and used, as well as for the fueling of boats owned by the Swinomish
17 Tribe.

18 27. On March 31 2015, Swinomish Police Department (SPD) Detective Larry
19 Yonally was advised by Rick Balam, SPD Chief of Police, that MILLER paid the
20 company Louis Autoglass of Bellingham, Washington, to replace a damaged windshield
21 on his GSA (U.S. General Services Administration) vehicle without prior authorization
22 from GSA or Swinomish Tribe and submitted the reimbursement request directly to the
23 Tribal General Manager, Allen Olsen. According to MILLER's description on the
24 request, the purchases were made with a combination of cash and personal credit card.
25 The request did not have a required signature from MILLER's department head, Ray
26 Erps. The request included other items that were purchased separately and included the
27 following items: NAPA Fuel filters \$41.92, Master Marine filters \$90.65, Boaters
28 Discount deck cleaner spray bottles \$34.12, Sebos Hardware shop vac \$92.21, Louis

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1 Autoglass windshield replacement \$281.01, totaling \$539.92. The amount of \$539.92
2 was reimbursed by check by Swinomish Tribe to MILLER.

3 28. I have reviewed the GSA Guide to Fleet Vehicles. Based on the guide,
4 glass replacements, including windshields must be authorized by the GSA Accident
5 Management Center (AMC) prior to the work being performed, regardless of cost.

6 29. The violation of Swinomish Tribal policy by submitting the reimbursement
7 request without a department head signature and the violation of GSA policy pertaining
8 to windshield replacement raised suspicion about MILLER's purchase history and
9 utilization of tribal funds. Purchase orders submitted to the accounting department by
10 MILLER on behalf of the FGE were reviewed for the years 2012, 2013, 2014, and 2015.

11 30. These records show that purchases during 2012 to 2015 made by MILLER
12 were shipped to either of his residential addresses -- 17471 Snee Oosh Road, LaConner,
13 Washington 98257 or 11193 Swinomish Avenue, LaConner, Washington 98257. These
14 records also showed that purchase orders submitted by other FGE officers in the same
15 department were shipped to the FGE address of 11404 Moorage Way, LaConner,
16 Washington 98257; none of these other FGE officers had items purchased with tribal
17 funds to their own residence except MILLER.

18 31. Swinomish Tribe provided records for calendar years 2012-2015 for my
19 review, and based on the records submitted and interviews conducted of Swinomish
20 Tribe employees, I have identified purchases by MILLER not authorized by the
21 Swinomish Tribe, nor were they made for the official use and purpose of the Swinomish
22 Tribe.

23 32. None of the items, equipment, and supplies identified in Counts 1 through
24 11 were in the possession of the Swinomish Tribe on or prior to June 1, 2015, nor did the
25 PGE Director, Ray Erps, or the Swinomish Police Chief, Rick Balam, know of the
26 location where these items were being stored.

1 *Non-Official Purchases with Key Bank Card*

2 33. **Count 1 (boat pump):** ROBERT SCOTT MILLER submitted a Purchase
3 Requisition/Disbursement form dated January 9, 2012, listing a boat pump and tape from
4 Redden Marine Supply in Bellingham, Washington. MILLER's narrative of the purchase
5 detailed the need to replace a broken hydro pump on the Swinomish Tribe's patrol boat.
6 The invoice described the item as a P20A15 Gallon Pump with Clutch and Denso Tape-
7 Petrowrap. The invoice showed a purchase method of a Key Bank credit card ending in
8 8096, in the amount of \$689.99 for the pump. Tribal Administration personnel provided
9 documentation of a corporate credit card statement that confirmed this purchase and a
10 check stub that confirmed disbursement of tribal funds. FGE Director Ray Erps has
11 advised me that he is not aware of any boat pumps breaking down and requiring
12 replacement in February 2012 or since that time. The boat pump was shipped to a P.O.
13 Box in La Conner, Washington, in the name of J.D., a close friend of MILLER's.

14 34. **Count 2 (fuel gauge):** On February 27, 2012, MILLER purchased a boat
15 sensor, tank gauge, and shop vac using one of the Key Bank cards. He submitted a
16 Purchase Requisition/Disbursement form for a boat sensor, tank gauge, and shop vac.
17 The sensor and gauge were purchased from WEMA USA's online website and paid for
18 with Visa card ending in 8096 in the amount of \$76.00. WEMA USA described the
19 items specifically as a UPFR-BB Single Analog Fuel Tank Gauge (black) and SSS/SSSL
20 Fuel or Water Tank Sensor (4-60 inch, Length 9 inch). Tribal Administration personnel
21 provided documentation of a corporate credit card statement that confirmed this purchase
22 and a check stub that confirmed disbursement of Tribal funds.

23 35. Based on my interviews of Director Erps and Chief Balam, I have learned
24 that the location of the WEMA Tank Gauge and WEMA Tank Sensor are unknown and
25 not in the possession of the Swinomish Tribe. The tank gauge and sensor were shipped to
26 MILLER's residence at 17471 Snee Oosh Rd, LaConner, Washington.

27 36. **Count 3 (fuel):** On February 27, 2012, MILLER used a Key Bank card to
28 purchase \$470.81 of fuel and submitted a Purchase Requisition/Disbursement form. On

1 the form, MILLER indicated that the fuel was for a FGE truck and patrol skiff. Tribal
 2 Administration personnel provided documentation of a corporate credit card statement
 3 that confirmed that fuel was purchased with the card around that same date and a check
 4 stub that confirmed disbursement of Tribal funds. Director Erps and Chief Balam have
 5 advised that the truck is a GSA owned vehicle and has its own gas and maintenance card.
 6 There is no need for MILLER to have used his tribal credit card to purchase fuel for tribal
 7 vehicles. Additionally, Balam advised that the patrol skiff that MILLER claimed to
 8 purchasing fuel for only has a three gallon gas tank, and MILLER's FGE truck has a 25-
 9 gallon gas tank. The purchase of \$470.81 for fuel is significantly more than is needed to
 10 fuel the patrol skiff and FGE truck.

11 37. **Count 4 (boat rebuild parts):** On April 3, 2013, MILLER purchased two
 12 Mandrel For Sea Pump Pulleys, one Billet Power Steering V-Groove Pulley, and one
 13 Stainless Steel Lifetime Sea Pump Overhaul Kit utilizing a Key Bank card and expending
 14 \$420.29 of tribal funds. He submitted a Purchase Requisition/Disbursement form
 15 indicating that the items were for re-build parts for the patrol boat. An employee at
 16 Hardin Marine (the vendor from which the items were purchased) advised me that the
 17 specific parts identified in the purchase receipt are generally only compatible with
 18 Mercury engines. I confirmed with Director Erps and Chief Balam that FGE does not
 19 own any boats with Mercury engines. Director Erps further explained that none of the
 20 FGE boats have needed to be rebuilt. Tribal Administration personnel provided
 21 documentation of a corporate credit card statement that confirmed this purchase and a
 22 check stub that confirmed disbursement of tribal funds. The items were shipped to 17471
 23 Snee Oosh Rd, LaConner, Washington.

24 38. **Count 5 (strainers and cleats):** On February 5, 2014, MILLER conducted
 25 an online order through go2marine.com's website for two boat strainers and four
 26 aluminum cleats, using a Key Bank card in the amount of 458.35. He submitted a
 27 Purchase Requisition/Disbursement form, along with an invoice verifying the items as a
 28 Buck Algonquin 1-inch stainless steel raw water strainer, a Buck Algonquin 1.5 inch

1 stainless steel raw water strainer, and four Fraser FDC10A Weld-on Cleats, Aluminum
2 10 inch. The order states that they were purchased for one of FGE boats, but Director
3 Erps and Chief Balam have confirmed that these items are not in FGE storage, the office,
4 nor installed on any of the boats. Further, that the models purchased are not compatible
5 with FGE boats.

6 39. **Count 6 (Bose speaker):** On February 10, 2014, MILLER purchased three
7 sets of black Bose Waterproof speaker pairs using a Key Bank card. He submitted a
8 Purchase Requisition/Disbursement form for these speakers. The purchase was made on
9 the Bose website and the invoice described the items as 151 SE Black waterproof
10 speakers. Director Erps and Chief Balam have advised me that they are aware of the
11 location of two of the speakers, but the location of the third set is unknown. Tribal
12 Administration personnel provided documentation of a corporate credit card statement
13 that confirmed this purchase and a check stub that confirmed disbursement of Tribal
14 funds in the amount of \$278.95 for each speaker set. The items were shipped to
15 MILLER's residence at 11193 Swinomish Avenue, LaConner, Washington.

16 40. **Count 7 (chainsaw):** On April 22, 2014, MILLER ordered and
17 subsequently submitted a Purchase Requisition/Disbursement form for two chainsaws,
18 bar oil, and oil mix. MILLER described the items on the form as two-16 inch bar
19 chainsaws 38cc. There was no receipt provided, but Tribal Administration personnel
20 provided documentation of a corporate credit card statement that confirmed this purchase
21 and a check stub that confirmed disbursement of Tribal funds. One chainsaw costs
22 \$209.99, and tribal funds were used to pay for the chainsaw. Chief Balam advised me
23 that as of June 1, 2015, FGE had one chainsaw in its inventory.

24 41. **Count 8 (hatches):** On April 29, 2014, MILLER purchased two boat
25 hatches from LFS Marine & Outdoor, in the amount of \$770.93, using a Key Bank card.
26 He submitted a Purchase Requisition/Disbursement form along with an LFS Marine and
27 Outdoor invoice that described the items as two P&E 16 inch by 24 inch Anchor
28 Aluminum Hatches. Chief Balam advised me that MILLER told other officers in the

1 department that the hatches would be used for the Tribe's 32-foot boat. In my interviews
2 of Director Erps and other FGE officers, I have learned that the 32-foot boat does not
3 have any deck hatches of the type ordered installed on it. Tribal Administration
4 personnel provided documentation of a corporate credit card statement that confirmed
5 this purchase and a check stub that confirmed disbursement of Tribal funds. The items
6 were shipped to 11193 Swinomish Avenue, LaConner, Washington.

7 42. **Count 9 (rifle bags):** On January 27, 2015, MILLER submitted a
8 Purchase Requisition/Disbursement form listing two rifle bags, two shooting rests, and
9 targets. The items were purchased online from midwayusa.com on January 20, 2015. The
10 invoice from midwayusa.com details the items as two Boyt floating scoped rifle Cases
11 50-inch with pocket nylon advantage, one Protektor Standard Front Shooting Rest Bag
12 Leather Tan Filled, one Birchwood Casey Dirty Bird 12" Sight In Targets Package of 12,
13 and one Protektor Bunny Ear Rear Shooting Rest Bag with Heavy Bottom Leather. The
14 invoice showed a purchase method with a Key Bank card. Tribal Administration
15 personnel provided documentation of a corporate credit card statement that confirmed
16 this purchase and a check stub that confirmed disbursement of tribal funds. According to
17 Chief Balam, FGE does not have any rifles in their inventory, nor are the two rifle bags in
18 their storage or office locations. The items were shipped to the address at 11193
19 Swinomish Avenue, LaConner, Washington. The two rifle bags purchased by MILLER
20 resulted in a credit charge of \$69.98 to the Key Bank credit account, paid with tribal
21 funds.

22 *Other Non-Official Purchases Using Tribal Funds*

23 43. **Count 10 (LED light):** On February 4, 2014, MILLER submitted a
24 Purchase Requisition/Disbursement form for three 20-inch LED light bars and three LED
25 dually lights from Sea Well Marine Lighting. These items were paid by check on
26 Swinomish Tribe's Key Bank account. One of the 20-inch LED light bars is unaccounted
27 for and not in the storage or office locations of the Swinomish Tribe and PGE. The
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1 amount paid for one 20-inch LED light bar is \$709.99. The items were shipped to
2 MILLER at 17471 Snee Oosh Road, LaConner, Washington.

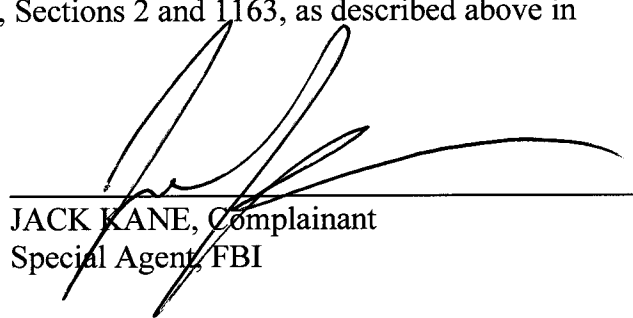
3 44. **Count 11 (Sebos Shop Vac):** As explained in Paragraph 27 above, one of
4 the items purchased on March 24, 2015 by MILLER for which he used personal funds to
5 pay and received reimbursement from Swinomish tribal funds was a Sebos Shop Vac.
6 Director Erps and Chief Balam confirmed with me that the Sebos Shop Vac is not in
7 tribal inventory for FGE and its location was unknown.

8 *Execution of Search Warrant*

9 45. On June 1, 2015, a federal search warrant was executed at 7471 Snee Oosh
10 Road, La Conner, Washington, a residence where MILLER was residing. Federal agents
11 located the Sebos Shop Vac in the residence and took a photograph of it. Additionally,
12 during the search of a large work shop on the property, I saw several items matching the
13 description of items purchased by MILLER including WEMA fuel gauge, WEMA tank
14 sensor, and a 20" LED light bar.

15 46. Also within a few days following the execution of the search warrant,
16 MILLER's wife turned in the chainsaw that MILLER had purchased on April 22, 2014,
17 to the Swinomish Police Department.

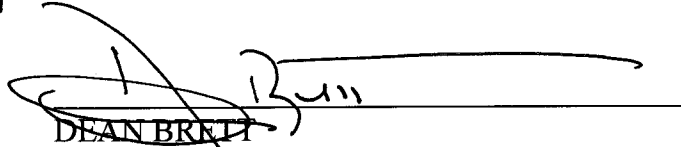
18 Based on the above facts, I respectfully submit that there is probable cause to
19 believe that ROBERT SCOTT MILLER did commit the offenses of Wire Fraud, in
20 violation of Title 18, United States Sections 2 and 1343, and Theft of Tribal Funds, in
21 violation of Title 18, United States Code, Sections 2 and 1163, as described above in
22 Counts 1 through 10.

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JACK KANE, Complainant
Special Agent, FBI

1 Based on the Complaint and Affidavit sworn to before me, and subscribed in my
2 presence, the Court hereby finds that there is probably cause to believe that ROBERT
3 SCOTT MILLER committed the offenses set forth in the complaint.

4 Dated this 31 day of August, 2015.

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6 
7 ~~DEAN BRETT~~
8 United States Magistrate Judge
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